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August 10, 2006

Dear Xxxxx:

This letter is in response to your letter dated November 15, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a state and local tax consulting firm located in CITY/STATE. As such, we contract with many multi-state clients in various industries. In doing so, we pride ourselves in researching all aspects of specific industry transactions in order to better serve our clients both current and future. To this end, we respectfully request a written opinion on the following scenario.

Scenario

Company A invented a patented chemical used to reduce pipeline pressure, conserve electricity and increase flow rates in the transportation of crude oil and other fuels (gasoline, diesel, etc.) through pipelines. The chemical is injected in the pipeline at key interval positions to reduce pressure and increase flow rates. The chemical is delivered to the oil company's site in a skid or external storage tank. The skid pumps the chemical through a hose directly into the pipeline while oil and fuels are being pushed through it. The skids are rented or sold to the oil company and Company A does not provide an operator to inject the fluid. The oil company uses their personnel to perform the injection process.

We respectfully request a letter ruling confirmation on the following information, assertions and questions.

1. The fluid injected into the pipeline mixes with the oil/fuel and is not separated before consumption from the end-user. It becomes part of the oil/fuel and the ratio of the percentage of fuel is 10 parts per million for every gallon.

Assertion 1: Pursuant to Illinois administrative rule ¶ 66-018, 86 Ill. Adm. Code 130.120 related to non-taxable transactions, the sale of the fluid to the oil company is a sale for resale since the chemical is ultimately resold as part of the oil/fuel to the final end-user for consumption and is not taxable under ¶ 66-018, 86 Ill. Adm. Code 130.120.

Assertion 2: The skid and attached injection equipment, pumps and hoses are exempt from sales tax pursuant to Illinois administrative rule ¶ 66-121 Ill. Adm. Code 130.330 governing manufacturing machinery and equipment because the insertion of the chemical creates a physical change on the oil/fuel compound.

2. The chemical creates such a dramatic drop in pressure and increases the amount of flow capability in a pipeline that the oil company can shut-down pump stations along the route of the pipeline. The pump stations are run on electricity and the oil company can conserve the amount of electricity used by closing individual pump stations.

Question 1: Would the use of the chemical and injection equipment for electricity conservation qualify for any pollution control/conservation equipment exemptions in the State of Illinois under Illinois administrative rule ¶ 66-126, 86 Ill. Adm. Code 130.335?

Question 2: If so, would the machine qualify for exemption at the time of purchase by Company A?

Based upon your response, we will be better able to serve our clients. Your prompt attention to this request is greatly appreciated. If there are any questions please call me.

DEPARTMENT'S RESPONSE:

This response assumes your client is an Illinois retailer. When an Illinois retailer sells tangible personal property and delivers it in Illinois, sales tax is due unless an exemption can be documented. A resale exemption may be applicable when making sales to a distributor who will in turn sell the tangible personal property. See 86 Ill. Adm. Code 130.210 and 130.1405.

In general, items that will become a component part of a product that is subsequently sold will qualify for the resale exemption. See 86 Ill. Adm. Code 130.210. Persons selling items of tangible personal property for resale should obtain a Certificate of Resale from purchasers on these items. The requirements for Certificates of Resale are explained in Section 130.140.

The Department is without sufficient information to make a determination regarding whether the process in question would qualify as exempt under the manufacturing machinery and equipment exemption. For information regarding the manufacturing machinery and equipment exemption, please see 86 Ill. Adm. Code 130.330.

In general, the manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, *by procedures commonly regarded as manufacturing*, processing, fabricating or refining which changes some

existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant. See 86 Ill. Adm. Code 130.330(b)(2). (Emphasis added).

Please note, the pollution control facilities exemption referred to in subsection (a) of 130.335 was repealed effective June 30, 2003. See 86 Ill. Adm. Code 130.335.

If you wish to obtain a private letter ruling regarding these issues, please submit a detailed description of the process in question complying with all of the requirements of 2 Ill. Adm. Code 1200.110 (b).

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk